IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10860 of 2006

Date of Decision : 07.12.2006

Mohinder Singh ... Petitioner

Versus

State of Punjab and others. .. Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. Harsh Aggarwal, Advocate,
for the petitioner.

Mr. B.S. Sewak, Deputy Advocate General, Punjab,
for respondent Nos. 1 and 2.

Mr. P.S.Khurana, Advocate,
for respondent No.3

J.S. Khehar, J. (Oral)

A perusal of the office report reveals that notice issued to respondent No.5 had been duly served. Respondent No.5 is neither present in person in Court today nor representing through counsel. He is, accordingly, procceeded against ex parte.

Through the instant writ petition, the petitioner has impugned the order dated 30.06.2006 (Annexure P/1) vide which, the petitioner, who is holding the post of Superintendent Grade-II, has been transferred from Zila Parisad, Ludhiana, to Panchayat Samiti, Jagraon. The solitary contention of the learned counsel for the petitioner is that the petitioner is to attain the age of superannuation on 31.07.2007, and as such, his transfer by the impugned order dated 30.06.2006, just about an year before his retirement is clearly in disregard to the policy instructions issued by the State Government, debaring

transfers within two years before the date of retirement. It is also the vehement contention of the learned counsel for the petitioner that the impugned order of transfer is clearly arbitrary.

As against the aforesaid contention of the learned counsel for the petitioner, it is submitted on behalf of the official respondents that the petitioner was transferred on promotion to the post of Superintendent Grade II. This assertion at the hands of the respondents is sought to be repudiated by the learned counsel for the petitioner, who vehemently contends that the petitioner was promoted to the post of Superintendent Grade II in December, 2004, as is apparent from the pleadings of the instant writ petition, but the impugned order of transfer was passed more than 1-1/2 years thereafter, on 30.06.2006.

Having examined the matter in its totality, we are satisfied that the plea raised on behalf of the respondents, namely, that the petitioner was transferred on his promotion is wholly unsustainable, in the facts and circumstances of this case.

In view of the above, the impugned order of transfer dated 30.06.2006 (Annexure P/1) by which the petitioner was transferred from Zila Parisad, Ludhiana to Panchayat Samiti, Jagraon, is hereby set aside. The petitioner shall be allowed to resume his posting at Zila Parisad, Ludhiana forthwith.

Allowed in the aforesaid terms.

(J.S. Khehar)
Judge

December 07, 2006 (S.D. Anand)
vkd Judge